

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DEMENCIO BAEZ,

Plaintiff,

DECISION AND ORDER

04-CV-6316L

v.

THOMAS M. POOLE and
TRUDY THORNTON,

Defendants.

This Court referred all dispositive motions to United States Magistrate Judge Jonathan W. Feldman pursuant to 28 U.S.C. § 636(b). Both defendants have moved to dismiss. Defendant Thomas M. Poole (“Poole”) moves to dismiss for lack of personal involvement, and both defendants move to dismiss all claims to the extent they are prosecuted against defendants in their official capacities. Magistrate Judge Feldman issued a thorough Report and Recommendation (Dkt. #15) recommending that the motion to dismiss claims to the extent defendants are sued in their official capacities be granted and that defendant Poole’s motion to dismiss for lack of personal involvement be denied without prejudice.


Neither plaintiff nor defendants have filed an objections to the Report and Recommendation, and the time within which to file such objections has lapsed.

I have reviewed Magistrate Judge Feldman's thorough Report and Recommendation on these issues, and I believe that he has accurately summarized both the facts and the law relevant to the motions. I find no reason to reject or modify his Report and Recommendation in any manner.

CONCLUSION

I adopt and accept the Report and Recommendation (Dkt. #15) filed by United States Magistrate Judge Jonathan W. Feldman concerning two motions filed by defendants. The motion of both defendants to dismiss the claims to the extent they have been sued in their official capacities is GRANTED and defendant Thomas M. Poole's motion to dismiss for lack of personal involvement is denied without prejudice.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
November 9, 2006.